

little doubt that his death was primarily due to his consumption of liquor during 120 years of that time. He was a constant user of alcoholic beverages and tobacco, and had it not been for the deadly effect of these poisons upon his strong and vigorous system, Mr. Raby might have lived to a good old age. Too bad!

#### THE MEDICAL ACT SUSTAINED BY THE SUPREME COURT.\*

On the first of June the Supreme Court handed down its decision in *ex parte Gerino*, sustaining the State medical practice act. The case was heard by the entire court, and not one of the seven Judges dissented. Just prior to the submission of the case, Judge Murasky of the Superior Court of San Francisco had held the act constitutional in the von Tiedemann, Gardini, Herbein cases. The lucid, logical decision, written by Justice Shaw, and which will always rank as a leading case, does great honor to the Supreme Court; for, although none of the constitutional questions raised by the contestants were necessarily involved in the proceeding, nevertheless the court, from public-spirited motives, passed upon all of them, and thereby obviated the necessity for considerable special litigation.

The decision must afford no little satisfaction to the sagacious and able originators and framers of the act. The profession will find cause for rejoicing in the fact that it may continue to exercise the public function delegated to it by the Legislature, as it has done for a quarter of a century, for the right to elect the Board of Examiners is not taken from the state medical societies and bestowed upon the Governor. The regular will not fail to appreciate the compliments to his school of medicine, which he will find throughout the opinion. The friends of higher medical education and the advocates of interstate medical reciprocity will congratulate themselves upon the action of the court in sustaining the truly scientific and national standard of the Association of American Medical Colleges, which our Legislature was the first to adopt. We hope other states will see fit to adopt the standard, for it is a long step toward that uniformity of legislation which is the true basis of reciprocity.

The decision is a complete indorsement for the majority of the Board of Examiners, who insisted upon the enforcement of the plain letter of the law. It is the answer to those timid minds and prophets of misfortune who never ceased to predict that the prosecution of unlicensed doctors of medicine would bring about the downfall of the law. It is now clear that the strenuous president of the board was not a "persecutor," but the exponent of law and order.

The attorneys for the Board of Examiners, in their brief, accused Gerino of attempting to bring

about a medical anarchy, because he was striving to wipe out the entire statute. His counsel replied: "The object and purpose of this litigation is to secure a judgment declaring a law unconstitutional which in its practical operation has become an engine of the grossest injustice. Our object and purpose is to secure a judgment nullifying an iniquitous law in order that other legislation may take its place, based upon the fundamental principles of equal rights and justice to all. Our object and purpose is to secure a judgment declaring this law unconstitutional, in order that a new law may be enacted which will entitle more than one hundred young men to practice medicine in this state, who have been educated in its medical colleges, and who are fully qualified in all respects to follow their chosen profession, and who are denied that right by the unjust provisions of the present act."

Counsel were pleading the natural and divine rights of "Sundown" von Tiedemann diplomas, and vouching for the qualifications of the medical Coxeyites and illegal practitioners who were turned down by the Legislature at its last session. It now appears that the iniquitous law which denied them the right to practice, which classed them at least as incompetents, was just, wise and beneficent.

At the very outset of the litigation over the medical act we predicted the triumph of the law, because it was based upon the solid rock of judicial precedent. Knowing of the precedents of the Frazer and other leading cases cited by the Supreme Court in the Gerino case, we were surprised that the title to office of the Board of Examiners should have been questioned by the Attorney-General, and that he should have permitted the name of the people to be used in a suit to remove the board from office, and to destroy the power of appointment delegated to the state medical societies by the Legislature.

The decision in the Gerino case affords cold comfort to the illegal practitioner. Unless we are greatly mistaken, it is the death knell of diploma mills and quackery in this state. Gerino, the champion of medical anarchy, until the next session of the Legislature "is remanded to the custody of the Chief of Police." Unfortunately the order of court does not reach as far as the Territory of Oklahoma, whither Gerino is said to have fled.

#### SAN FRANCISCO BOARD OF HEALTH AND THE MILK SUPPLY.

The San Francisco Board of Health, after an investigation of the source of the milk supply of this city, has found the dairies in an extremely unsanitary condition, a condition which urgently calls for reformation.

\*See page 209 for text of decision.